

REMARKS

With reference to the Final Office Action, dated September 11, 2008, mentioned above, in which: claims 1-9, 11-16, and 18-40 are rejected under 35 USC 102 on US Patent No. 6,339,767 (hereinafter, Rivette); and claims 10 and 17 are rejected under 35 USC 103 on Rivette in view of "Aesthetics-Based Graph Layout for Human Consumption" (hereinafter, Coleman), Assignee respectfully requests reconsideration of the present patent application in light of the foregoing amendments and the following remarks. It is asserted that the claims are in condition for allowance and favorable action in this regard is respectfully requested.

Claims 1-40 are pending. Claims 1, 11, 24, 31, 35 and 39 are amended. No claims have been withdrawn or cancelled and no new claims have been added.

Assignee notes the Examiner's statement regarding priority. Assignee has filed a petition with the petitions office so that appropriate priority may be recognized in the present application. The foregoing amendments and following arguments do not rely upon the petition being granted.

The Examiner has rejected claims 1-9, 11-16, and 18-28 are rejected under 35 USC 102 on Rivette. This rejection by the Examiner of these claims on this ground is respectfully traversed. Assignee notes that claims 1, 11 and 24 have been amended.

The Examiner has correctly pointed out that aspects of Assignee's previous argument are not necessarily reflected in the language of the pending claims. Therefore, the foregoing amendment is intended to clarify the language so that the claims do reflect such aspects. Assignee therefore respectfully asserts that the claims as amended now patentably distinguish from Rivette. Likewise, claims 2-9, 12-16, 18-23, and 25-40 depend from the amended claims and, therefore, also patentably

distinguish from Rivette on at least the same basis. It is therefore respectfully requested that the Examiner withdraw his rejection of these claims.

The Examiner has also rejected claims 10 and 17 under 35 USC 103 on Rivette in view of Coleman. This rejection of these claims on this ground is respectfully traversed.

It is noted that claims 10 and 17 depend from claims discussed above that have been distinguished from Rivette. It is respectfully asserted that Coleman fails to cure the deficiency of Rivette with respect to the base claims. Therefore, without conceding that the combination proposed is proper, whether Rivette and Coleman are viewed together or individually, claims 10 and 17 patentably distinguish from the applied documents at least for the reasons discussed above. Assignee therefore respectfully requests that the Examiner withdraw his rejection of these claims.

For at least the reasons listed above, Assignee respectfully submits that claims 1-40 are allowable. Failure of the Assignee to respond to a position taken by the Examiner is not an indication of acceptance or acquiescence of the Examiner's position. It is believed that the Examiner's positions are rendered moot by the foregoing and, therefore, it is believed not necessary to respond to every position taken by the Examiner with which Assignee does not agree.

Please charge any shortages and credit any overcharges of any fees required for this submission to Deposit Account number 50-3130.

CONCLUSION

In view of the foregoing, it is respectfully submitted that all of the claims pending in this patent application are in condition for allowance. If the Examiner has any questions, he is invited to contact the undersigned at (503) 439-6500.

Respectfully submitted,

Dated: _____

12/11/08

Howard Skaist

Howard Skaist
Patent Attorney
Reg. No. 36,008

Customer No. 43831
c/o Berkeley Law & Technology Group, LLP
17933 NW Evergreen Parkway, Suite 250
Beaverton, OR 97006
503.439.6500 (office)
503.439.6558 (fax)